UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF MASSACHUSETTS

IRON MOUNTAIN INTELLECTUAL PROPERTY MANAGEMENT, INC. Interpleader-Plaintiff, v. FIDELITY INFORMATION SERVICES, INC., f/k/a ALLTEL INFORMATION SERVICES, INC., and TOYOTA MOTOR CREDIT CORPORATION, Interpleader-Defendants.	)))))))))))))))))	Civil Action No. 05-10018-RGS **Request for ex parte consideration**

SECOND DECLARATION OF CHRISTINE GALLUCCI IN SUPPORT OF TOYOTA FINANCIAL SERVICES' APPLICATION FOR TEMPORARY RESTRAINING ORDER

I, Christine Gallucci, declare as follows:

1.   I have personal knowledge of the facts set forth herein, and if called as a witness, I could and would competently testify thereto.

2.   I have read the declarations of John Vaughan and David Slider and I have noted a number of misstatements and factual inaccuracies. In the remainder of this declaration I set out a number of these errors. Due to time constraints, however, I have not made an attempt to identify each and every inaccuracy.

OSCAR Rearchitecture

3.   Mr. Vaughan and Mr. Slider claim that the ALS-COM architecture is sufficient to support full deployment of the OSCAR Functionality and that the Microsoft Report supports this conclusion. These claims, however, are categorically false. As Mr. Vaughan and Mr. Slider well know:

- During deployment of Release 1, we experienced debilitating performance issues and system outages.

- TFS brought in Microsoft to analyze these issues after Fidelity refused to bring in Microsoft.

- Microsoft performed its analysis and concluded that the performance problems resulted from the inadequate ALS-COM architecture. *See* Microsoft report at pages 13-17. Specifically, Microsoft stated that:

  o "The following sections discuss a roadmap for making significant architectural changes that will provide a foundation for a more flexible and scalable application." page 13.

  o "Solving the inefficiencies in the application requires an improved application architecture." page 13.

  o "Business processes and workflow logic should be extracted out of the client application and moved to a separate business layer exposed through Web Services." page 13.

  o "The Web Services and Business Processes layers should reside on a web farm to provide a scalable and highly available solution." page 14.

4.   In paragraph 41 of his declaration, Mr. Vaughan claims that he did not tell me that the ALS-COM architecture would not support Release 2 of the OSCAR software. Mr. Vaughan is simply mistaken. I have a specific recollection that after receiving the Microsoft report, Mr.

Vaughan told me "off the record" that Fidelity's management was going to propose moving the OSCAR software to its Falcon architecture because the existing ALS-COM architecture would not support Release 2 of the OSCAR software.

Program Management

5.   In paragraph 34 of his declaration, Mr. Slider claims that TFS was responsible for managing the project and, therefore, any problems on the project were ultimately the responsibility of TFS. Again, Mr. Slider is simply wrong. As Mr. Slider well knows, Fidelity agreed to provide $823,275.13 worth of expert project management for the OSCAR project.

6.   In paragraph 33 of his declaration, Mr. Slider claims that change control on the project was "out of control." Again, however, Mr. Slider is simply misrepresenting the facts. As Mr. Slider knows, the parties established a budget of 5,899 program change request (PCR) hours for the project. Per Fidelity's own records, there are still 3,825 hours left after delivery of P5.

LA South DSSO

7.   In paragraph 12 of his declaration, Mr. Slider insinuates that our move of the LA South DSSO was an expression of confidence in the OSCAR system. Again, this is wrong. Due to consistency issues it was necessary for TFS to have all of the DSSOs operating on the same system. We investigated the possibility of moving all of the converted DSSOs off of OSCAR and back onto the old legacy system, but we were unable to locate the hardware required (old AS400 computers) to make this solution work. Our only remaining option was to move the LA South DSSO onto OSCAR and hope for the best.

Release 2 and RouteOne

8.   In paragraph 32 of his declaration, Mr. Vaughan claims that TFS is using Release 2 of OSCAR since TFS is using the "RouteOne" functionality. Again, Mr. Vaughan is mistaken. RouteOne is part of the decisioning processing (Release 1) and not part of the discounting processing (Release 2). RouteOne was only delivered with Release 2 because Fidelity claimed that it could not deliver RouteOne separately without causing a large schedule slip with Release 2. Even with the RouteOne software deployed, the software in use still amounts to no more than 50% of the complete OSCAR functionality.

Re-deployment of Fidelity Assets

9.   In paragraph 31 of his declaration, Mr. Slider claims that "Fidelity has not disbanded and reassigned its Toyota team to other projects, nor has it reallocated any assets dedicated to the Toyota project." This is a complete falsehood. As but one example, the following e-mail (a true and accurate copy of an e-mail I received at Toyota) clearly indicates that George Eckenrode, who was assigned to fix the critical ARCHIVER function of OSCAR, was told on December 14, 2004 to immediately leave Toyota's premises.

----- Forwarded by George Eckenrode/Vendors/Toyota on 12/14/2004 07:03 AM -----

"Martin, Brad" <Brad.Martin@fnf.com>

12/14/2004 06:30 AM

To: <George_Eckenrode@toyota.com>
cc:
Subject: No more on-site activities at Toyota

George,

I received notification today from John Fitzpatrick that you are not longer required to stay on site at Toyota. In fact John asked that you return immediately. In reality you can return as scheduled this Friday if you wish or bump it up. At any rate please plan on NOT returning to Toyota. Please feel free to call me if need you wish. I have a meeting with John and others tomorrow here in Atlanta. I will know more after that meeting. That is in regards to the Toyota project.

Brad

12.   I understand that Fidelity is claiming that we are performing routine maintenance on the OSCAR software and is using a 1/10/2005 email from Jose Dalton to support this claim. Mr. Dalton's e-mail does not indicate that we are performing routine maintenance on the OSCAR software. Mr. Dalton's e-mail merely reflects an occurrence of TFS applying a Microsoft security patch to the OSCAR servers. TFS does not currently have access to the OSCAR software and, therefore, TFS cannot support the OSCAR system.

I declare under penalty of perjury that the foregoing is true and correct and that this Declaration is executed on this ⟨18th⟩ day of January 2005 at Boston, Massachusetts.

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CHRISTINE GALLUCCI